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14 Attorneys for Plaintiff,  
15 Harry Boggs

16 IN THE UNITED STATES DISTRICT COURT  
17 FOR THE DISTRICT OF ARIZONA

18 Harry Boggs,

19 Plaintiff,

20 vs.

21 Enhanced Recovery Company, LLC; and  
22 DOES 1-10, inclusive,

23 Defendants.  
24  
25  
26  
27  
28

Case No.:

**COMPLAINT**

**JURY TRIAL DEMANDED**

1 For this Complaint, the Plaintiff, Harry Boggs, by undersigned counsel, states  
2 as follows:  
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt  
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of  
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to  
8 collect a consumer debt.  
9

10 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,  
11 1367.  
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that  
14 Defendants transact business here and a substantial portion of the acts giving rise to  
15 this action occurred here.  
16

17 **PARTIES**

18 4. The Plaintiff, Harry Boggs (hereafter "Plaintiff"), is an adult individual residing  
19 in Yuma, Arizona, and is a "consumer" as the term is defined by 15 U.S.C. §  
20 1692a(3).  
21

22 5. The Defendant, Enhanced Recovery Company, LLC (hereafter "ERC"), is a  
23 Florida company with an address of 8014 Bayberry Road, Jacksonville, Florida  
24 32256, operating as a collection agency, and is a "debt collector" as the term is  
25 defined by 15 U.S.C. § 1692a(6).  
26  
27  
28

1 6. Does 1-10 (the “Collectors”) are individual collectors employed by ERC and  
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors  
3 may be joined as parties once their identities are disclosed through discovery.  
4

5 7. ERC at all times acted by and through one or more of the Collectors.  
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**

9 8. A person other than the Plaintiff (the “Debtor”) allegedly incurred a financial  
10 obligation (the “Debt”) to an original creditor (the “Creditor”).  
11

12 9. Plaintiff is not the Debtor and has no responsibility for repayment of the Debt.

13 10. The Debt arose from services provided by the Creditor which were primarily  
14 for family, personal or household purposes and which meets the definition of a “debt”  
15 under 15 U.S.C. § 1692a(5).  
16

17 11. The Debt was purchased, assigned or transferred to ERC for collection, or ERC  
18 was employed by the Creditor to collect the Debt.  
19

20 12. The Defendants attempted to collect the Debt and, as such, engaged in  
21 “communications” as defined in 15 U.S.C. § 1692a(2).  
22

23 **B. ERC Engages in Harassment and Abusive Tactics**

24 13. Within the last year, ERC contacted Plaintiff in an attempt to collect the Debt  
25 by placing multiple calls to Plaintiff’s residential telephone.  
26  
27  
28

1 14. During each call, ERC's recording stated it was looking to collect on a Debt  
2 belonging to Randall Boggs (the "Debtor").  
3

4 15. Plaintiff is not the Debtor and does not know the Debtor.

5 16. On numerous occasions, Plaintiff followed ERC's automated prompt to be  
6 removed from ERC's calling list as he is not the Debtor and does not know the  
7 Debtor.  
8

9 17. ERC, however, continued to hound Plaintiff with telephone calls in its  
10 collection efforts.  
11

12 18. ERC's calls were extremely harassing to Plaintiff, who is elderly and in poor  
13 health due to a heart condition.  
14

15 **C. Plaintiff Suffered Actual Damages**  
16

17 19. The Plaintiff has suffered and continues to suffer actual damages as a result of  
18 the Defendants' unlawful conduct.

19 20. As a direct consequence of the Defendants' acts, practices and conduct, the  
20 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional  
21 distress, fear, frustration and embarrassment.  
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**COUNT I**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

**15 U.S.C. § 1692, et seq.**

21. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

22. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

23. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

24. The Defendants used unfair and unconscionable means to collect a debt, in violation of 15 U.S.C. § 1692f.

25. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

26. The Plaintiff is entitled to damages as a result of the Defendants' violations.

**COUNT II**  
**INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

1 28. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as,  
2 “One who intentionally intrudes...upon the solitude or seclusion of another, or his  
3 private affairs or concerns, is subject to liability to the other for invasion of privacy, if  
4 the intrusion would be highly offensive to a reasonable person.”  
5

6 29. Arizona further recognizes the Plaintiff’s right to be free from invasions of  
7 privacy, thus Defendant violated Arizona state law.  
8

9 30. The Defendant intentionally intruded upon Plaintiff’s right to privacy by  
10 continually harassing the Plaintiff with the above-referenced telephone calls.  
11

12 31. The telephone calls made by Defendants to the Plaintiff were so persistent and  
13 repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a  
14 substantial burden to his existence,” thus satisfying the Restatement of Torts, Second,  
15 § 652(b) requirement for an invasion of privacy.  
16

17 32. The conduct of the Defendants in engaging in the illegal collection activities  
18 resulted in multiple invasions of privacy in such a way as would be considered highly  
19 offensive to a reasonable person.  
20

21 33. As a result of the intrusions and invasions, the Plaintiff is entitled to actual  
22 damages in an amount to be determined at trial from Defendants.  
23

24 34. All acts of Defendants and its agents were committed with malice, intent,  
25 wantonness, and recklessness, and as such, Defendants are subject to punitive  
26 damages.  
27  
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**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants as follows:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;
- C. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;
- D. Actual damages from the Defendants for all damages, including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial;
- E. Punitive damages; and
- F. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

1 DATED: May 3, 2013

LEMBERG & ASSOCIATES, LLC

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4 By: /s/ Trinette G. Kent  
5 Trinette G. Kent

6 Attorney for Plaintiff,  
7 Harry Boggs  
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